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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/698,648
Filing Date: October 31, 2003
Appellant(s): EATON ET AL.

Remy J VanOphem (Reg. No. 27,053)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 19 March 2008 appealing from the Office action mailed 14 September 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0049624	Raveis	04-2002
JP 20021274946 A	Watanabe	10-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

Claims 1–6, 8–26, 28–46 and 48–60 are not patentable under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In the amended claims, appellants' invention creates a record identifier for a real estate record, receives information from any fax source capable of contacting at least one server irrespective of a fax number of said fax source, and, prompting a sender of said information to input said record identifier into said fax source. Appellant has not

disclosed how for example a Thermal Fax Machine which is capable of contacting at least one server (a server with fax capability like commercially available IBM AS/400 which can run applications as well as Fax Server) is sent a prompt for the sender to input said record identifier because the telephone line is busy with the communication between the thermal fax machine and the server, and also, how does the sender know the record identifier associated with the real estate record.

Also, as claimed in claims 3, 23 and 43, appellant has not disclosed how a portion of fax is sent to MLS when there is not conversion like for example OCR is done on the received fax to extract the data which is sent to MLS.

Claims 1–6, 8–26, 28–46 and 48–60 are not patentable under 35 U.S.C. 112, second paragraph, as being vague and indefinite. For example:

appellant has not positively claimed how a sender of a fax to the server knows the identifier associated with the real estate record to be able to respond to the prompt by the server.

the association of the information received is associated with the proper real estate;

appellant has not positively claimed how the system approves the information received.

appellant has not positively claimed how the claimed invention automatically makes a decision on what access rights should assigned to the received information.

Claim Rejections - 35 USC § 103

Claims 1–6, 8–26, 28–46 and 48–60 are not patentable under 35 U.S.C. 103(a) as being unpatentable over Raveis US Publication 2002/0049624 in view of Watanabe Japan Patent 2001-274946.

Regarding claims 1, 21 and 41, as best understood by examiner, Raveis teaches automating at least some phases of real estate transfer (storing data relating to and coordinating the multitude of tasks associated with the purchase or sale of a property from contract to close) [0017], said method being centralized on at least one server and carried out over a distributed computer network to a plurality of client computers [Fig. 1 and disclosure associated with Fig. 1]. Raveis teaches:

creating a real estate record on said at least one server [0017, 0018];

Raveis does not teach receiving information from any fax source. However, Watanabe teaches capability for receiving information from Facsimile equipment.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adopt the teachings of Watanabe and modify Raveis to electronically file the documents received from parties involved in a transaction.

Raveis in view of Watanabe teaches:

prompting a sender to input record identifier

associating said information to said real estate record using a record identifier [Watanabe, 0009];

storing said information on said at least one server in association with said real estate record identity [Raveis, Fig. 3a,b and disclosures associated with the Fig., Watanabe, 0009, 0010].

Regarding claims 2, 22 and 42, Ravies in view of Watanabe teaches receiving at least some portion of a property listing from a multiple listing service (available homes are listed in MLS) [Raveis, 0099].

Regarding claims 3, 23 and 43, Raveis in view of Watanabe teaches transmitting at least a portion of said real estate record to a multiple listing service [Raveis, 0099].

Regarding claims 4, 24 and 44, Raveis in view of Watanabe teaches converting said information into a digital document to be associated and stored in accord with said associating and storing steps [Watanabe, claim 11 and disclosure associated with claim 11].

Regarding claims 5, 25 and 45, Raveis in view of Watanabe teaches:
determining whether said record identifier matches any of a number of a plurality of real estate records [Watanabe claim 1 and disclosure associated with claim 1];
discarding said digital document if said determining step is negative (it a business choice to decide what course of action to take when the determining action is

negative. Watanabe teaches storing document into a common document storage area, and also capability of discarding the document. [Watanabe, 0039, claim 2 and disclosure associated with claim 2].

Regarding claim 6, 26 and 46, Raveis in view of Watanabe teaches capability for saving said digital document on said at least one server in accord with a matching real estate record if said determining step is positive.

Regarding claims 8, 28 and 48, Ravies in view of Watanabe teaches capability for listing agent reviewing said information [Watanabe, 0028] and granting view rights to authenticated users, such that said users can access and view a digital representation of said information (Raveis teaches remote log-in) [Raveis, 0007]. It is business choice for implementing security measures and decide how the security measures are implemented.

Regarding claims 9, 29 and 49, as responded to earlier for claim 1 and 8, Raveis in view of Watanabe teaches capability for listing agent marking information as secured or unsecured.

Regarding claims 10, 30 and 50, as responded to earlier for claims 1 and 8, Reveis in view of Watanabe teaches capability for providing security clearance and access over said distributed computer network to at least some portions of said real

estate record to a plurality of different users depending upon an assigned role of a user among said plurality of different users, said plurality of different users including buyers, sellers, brokers, managers, agents, financial entities, other third parties, or the like.

Regarding claims 11, 31 and 51, as responded to earlier for claims 1, 8 and 10, Reveis in view of Watanabe teaches capability providing a masquerade function whereby one of said plurality of different users can masquerade as another of said plurality of different users (an agent can be a buyer agent for searching properties, and, the same agent can be a listing agent for posting their properties on to the MLS).

Regarding claims 12, 32 and 52, as responded to earlier for claims 1, 8 and 10, Reveis in view of Watanabe teaches tracking activity on said at least one server so as to provide an audit trail of said activity corresponding to said real estate record such as date of access, user identification, and the like [Raveis, 0003].

Regarding claims 13, 33 and 53, as responded to earlier for claims 1, 8 and 10, Reveis in view of Watanabe teaches capability for administration by a real estate broker.

Regarding claims 14, 34 and 54, as responded to earlier for claims 1, 8, 10 and 13, Reveis in view of Watanabe teaches capability for enabling a real estate broker controlling at least a portion of said information, said at least a portion of information

including a list of third party companies with whom said real estate record is associated, such that a listing agent must use only third party companies from said list to conduct said real estate transfer.

Regarding claims 15, 35 and 55, as responded to earlier for claims 1, 8, 10 and 13, Reveis in view of Watanabe teaches capability for real estate broker controlling at least a portion of said information, said at least a portion of said information including a scheduling master template.

Regarding claims 16, 36 and 56, as responded to earlier for claims 1, 8, 10, 13 and 15, Reveis in view of Watanabe teaches capability for automatically generating a schedule for said real estate record from said scheduling master template [Raveis, 0021].

Regarding claims 17, 37 and 57, as responded to earlier for claims 1, 8, 10, 13, 15 and 16, Reveis in view of Watanabe teaches capability for schedule being automatically populated with a plurality of tasks and associated dates [Raveis, 0021].

Regarding claims 18, 38 and 58, as responded to earlier for claims 1, 8, 10 and 13, Reveis in view of Watanabe teaches capability for generating email communications to one or more of a plurality of users based on the happening of an event [Raveis, 0034].

Regarding claims 19, 39 and 59, as responded to earlier for claims 1, 8, 10 and 13, Reveis in view of Watanabe teaches capability for automatically generating an email communication containing advertising information from said real estate record (content of an email is business choice).

Regarding claims 20, 40 and 60, as responded to earlier for claims 1, 8, 10 and 13, Reveis in view of Watanabe teaches capability for generating reports from said real estate record [Raveis, 0024, 0025].

(10) Response to Argument

In response to appellants' argument that the examiner should always look for enabled, allowable subject matter and communicate to applicant what that subject matter is at the earliest point possible in the prosecution of the application."

However, appellants' argument are for the office action which was issued on the amended claimed invention in which additional limitations were added to the claims.

In response to appellants' argument that Appellants have set forth a preferred embodiment of the invention and the matter of using the invention in such full, clear, concise and exact terms as to enable a skilled artisan to make and use the same, beginning on page 47, lines 13-34 and continuing through page 51, lines 1-3. As is clear from the language in the independent claims, and from the preferred embodiment set

forth in the specification recited above, the information is received from a fax source which is capable of contacting the server irrespective of the fax number and fax source.

However, claimed invention has the limitation receiving information from any fax source capable of contacting said at least one server irrespective of a fax number of said fax source. This includes Thermal Fax Machines which is also capable of contacting at least one server irrespective of a fax number of said fax source. Specification as originally filed does not enable one of ordinary skill in the art to use the invention when a sender using Thermal Fax Machine receives a prompt indicating the sender to input the record identifier generated by the server.

In response to appellants' argument that cited reference are not analogous art because Appellants' invention is directed to problems associated with a real estate transfer process whereas cited Raveis, Jr., is directed to the problems associated with managing customer relations in real estate transactions, and, Watanabe is directed to problems associated with the use of document needed to be transferred via facsimile to a file server.

However, appellants' claims never transfers real estate. It merely stores the information related to a transaction. Ravies clearly teaches capability for storing information related to a transaction. Watanabe clearly teaches information related to a transaction can be communicated via a Fax Machine. In addition, communication related to a transaction using a fax machine in an old and known idea. For example, Office allows appellants' and their representatives to file responses for an application

via Fax Machines which are stored with the appropriate application on the USPTO server.

In response to appellants' argument that cited references receiver ID may or may not be an identification and certainly is not a real estate record identity, and, it would still require a special cover sheet for faxed communications which is needed to be decoded by the file server network so that it may be stored thereon.

However, as currently claimed by the appellant, assigned record identifier is not communicated to the sender [see independent claim 1], therefore the sender does not know what record identifier to input when the sender is prompted to enter the record identifier, and may or may not enter the correct record identifier. Therefore, as currently claimed, appellants' claimed invention would also require additional processing by the file server network so that received document stored in association with the real estate record.

In response to appellants' argument that cited reference Watanabe does not even mention Raveis, much less teach any modifications to Raveis, and, examiner has not articulated a sufficient reason why one skilled in the art would have modified the prior art and arrived at the presently claimed subject matter. Therefore, Appellants respectfully assert that the Examiner has not met his burden of articulating a prima facie case of obviousness.

However, cited reference Raveis teaches that in a transaction which is associated with a real estate, sender response received over a computer network for multitude tasks related to a transaction can be stored on a server. Ravies did not teach sender communication using a Fax Server, however, Watanabe teaches that a sender can communicate with a server using a Fax Machine. One of ordinary skill in the art could modify Ravies and also implement capabilities taught by Watanabe to allow senders to respond using a fax machine to yield predictable results like keeping copy of an invoice (for example, USPTO allowing applicants to file response to office actions via fax), in addition, one of ordinary skill in the art could modify Ravies and also implement capabilities taught by Watanabe and apply a known technique to a known method or device ready for improvement to yield predictable results.

In response to appellants' argument that appellants' independent Claims 1, 21, and 41 recite, inter alia, assigning a record identifier to a real estate record, prompting a sender of information to input a record identifier into a fax source, and associating information received from the fax source to a real estate record using the record identifier.

However, claimed invention is "prompting a sender of said information to input said record identifier into said fax source", and not "prompting a sender of information to input a record identifier into a fax source". When created record identifier is not communicated to the sender, how can the sender input the said record identifier.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Naresh Vig/

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